

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Planning and Building	(2) MEETING DATE 1/29/2013	(3) CONTACT/PHONE Michael Conger, Planner / 805-781-5136	
(4) SUBJECT Submittal of a resolution acknowledging the Certification by the California Coastal Commission of the San Luis Obispo County Local Coastal Program (LCP) Major Amendment 1-10 – Grading and Stormwater Management Ordinances. Districts 2, 3, and 4.			
(5) RECOMMENDED ACTION It is recommended that the Board: (1) Review and consider the modifications the Coastal Commission has made to San Luis Obispo County LCP Amendment 1-10. (2) Determine whether to acknowledge receipt of the Coastal Commission's resolution. Acknowledgment can occur by adopting and instructing the Chairperson to sign the attached resolution acknowledging receipt of the Coastal Commission's resolution with modifications, accepting and agreeing to the modifications. (3) If acknowledged, direct staff to submit the Resolution to the Executive Director of the California Coastal Commission.			
(6) FUNDING SOURCE(S)	(7) CURRENT YEAR FINANCIAL IMPACT \$0.00	(8) ANNUAL FINANCIAL IMPACT \$0.00	(9) BUDGETED? Yes
(10) AGENDA PLACEMENT <input type="checkbox"/> Consent <input type="checkbox"/> Presentation <input type="checkbox"/> Hearing (Time Est. _____) <input checked="" type="checkbox"/> Board Business (Time Est. <u>30 mins</u>)			
(11) EXECUTED DOCUMENTS <input checked="" type="checkbox"/> Resolutions <input type="checkbox"/> Contracts <input type="checkbox"/> Ordinances <input type="checkbox"/> N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR)		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: <input type="checkbox"/> 4/5th's Vote Required <input checked="" type="checkbox"/> N/A	
(14) LOCATION MAP No	(15) BUSINESS IMPACT STATEMENT? No	(16) AGENDA ITEM HISTORY <input type="checkbox"/> N/A Date <u>12/11/2012</u>	
(17) ADMINISTRATIVE OFFICE REVIEW Reviewed by Leslie Brown			
(18) SUPERVISOR DISTRICT(S) District 2 - District 3 - District 4 -			

County of San Luis Obispo



TO: Board of Supervisors

FROM: Planning and Building / Michael Conger, Planner

DATE: 1/29/2013

SUBJECT: Submittal of a resolution acknowledging the Certification by the California Coastal Commission of the San Luis Obispo County Local Coastal Program (LCP) Major Amendment 1-10 – Grading and Stormwater Management Ordinances. Districts 2, 3 and 4.

RECOMMENDATION

It is recommended that the Board:

- (1) Review and consider the modifications the Coastal Commission has made to San Luis Obispo County LCP Amendment 1-10.
- (2) Determine whether to acknowledge receipt of the Coastal Commission's resolution. Acknowledgment can occur by adopting and instructing the Chairperson to sign the attached resolution acknowledging receipt of the Coastal Commission's resolution with modifications, accepting and agreeing to the modifications.
- (3) If acknowledged, direct staff to submit the Resolution to the Executive Director of the California Coastal Commission.

DISCUSSION

On December 11, 2012, the Board of Supervisors considered acknowledgement of the Coastal Commission's action on the Grading and Stormwater Management Ordinances and continued the item. The County adopted these ordinances in April 2010, in order to comply with requirements under the National Pollutant Discharge Elimination System (NPDES). These ordinances have been in effect in the inland portion of the County since May 2010. In order for the ordinances to take effect in the Coastal Zone, Coastal Commission action is required.

The Coastal Commission approved modifications to the Local Coastal Program (LCP) in August 2012, with 35 modifications being made to the Grading and Stormwater Management Ordinance adopted by the Board of Supervisors. In order to complete the LCP amendment process, the Board would have to acknowledge and accept all Coastal Commission modifications. The acknowledgement then must be transmitted to and accepted by the Coastal Commission Executive Director. The transmittal must be received by February 9, 2013; otherwise, the LCP amendment will expire.

During the December 2012 hearing, the Board considered some of the more significant Coastal Commission modifications:

- **Coastal Development Permit threshold.** The Coastal Commission modifications include changes to the threshold for a Coastal Development Permit. If acknowledged, the new ordinance would require Coastal Development Permits for:

- All grading projects, regardless of whether or not a grading permit is required.
- Intensification or expansion of crop production activities on lands that have not been used for crop production purposes within the last five years.
- **Cultivation activities versus grading.** The Coastal Commission has eliminated the distinction between cultivation activities and grading. This would mean that any earth movement quantities done for crop production purposes would be counted towards grading cut/fill quantities.

A complete discussion on Coastal Commission modifications is contained in the December 11, 2012 Board of Supervisors staff report.

The Board is now presented with a choice:

- **The Board may acknowledge the Coastal Commission's actions.** As part of the acknowledgement, the Board would be accepting all Coastal Commission modifications.
- **The Board may choose to allow the Local Coastal Program Amendment to expire.** If the Board does not acknowledge the Coastal Commission's actions and accept all modifications, the Local Coastal Program amendment would expire on February 9, 2013. This means that existing ordinance standards would remain in place within the Coastal Zone.

In either case, the County will be required to amend inland and coastal ordinances again by September 2013 to reflect recent changes in post-construction stormwater control requirements. County staff plans to meet early on with Coastal Commission staff to discuss and agree upon a defined LCP amendment scope. If the scope is to include modifications to Coastal Development Permit thresholds, staff will request that the Coastal Commission engage and collaborate with representatives from the agricultural community. This process would be essential to developing ordinance language that includes local input.

OTHER AGENCY INVOLVEMENT/IMPACT

The Regional Water Quality Control Board oversees the County's compliance with NPDES Permit requirements. County Public Works coordinates the County's Stormwater Management Program. The California Coastal Commission has taken action on the LCP amendment. The Agricultural Commissioner's office and the local Resource Conservation Districts will also be involved with the Alternative Review Program. County Counsel has reviewed and approved the resolution as to form and legal effect.

FINANCIAL CONSIDERATIONS

All County staff costs for administering the grading and stormwater ordinance and other programs as part of the National Pollutant Discharge Elimination System (NPDES) are contained within the Planning and Building Department budget.

RESULTS

The Board's acknowledgment of the Coastal Commission's action is "all or none." The Board can either agree to all of the modifications, or choose not to acknowledge them, which means no change to the Local Coastal Program will occur.

If acknowledged, County staff will transmit the attached resolution to the Executive Director of the Coastal Commission. Once accepted, the Grading and Stormwater Management Ordinances would become effective in the Coastal Zone.

By September 2013, the County would still have to process an additional Local Coastal Program amendment and submit it to the Coastal Commission. This amendment would reflect changes to post-construction requirements adopted by the RWQCB in September 2012 and required to be adopted by September 2013.

If not acknowledged, the Local Coastal Program amendment would expire, and the existing Coastal Zone ordinance would remain in place. In this circumstance, the RWQCB could conclude that the County is out of compliance with the NPDES General Permit. If the RWQCB reaches this conclusion, they will most likely issue a Notice of Violation (NOV) and give the County an opportunity to respond and remedy the situation.

If an NOV were issued, staff anticipates that the County would make an attempt to demonstrate that we are on a path to compliance and have been pursuing ordinance amendments in good faith. This is well evidenced in the record:

1. **The ordinance is already in effect in the inland areas of the County.** The Board adopted both the coastal and inland ordinances in 2010. The inland ordinance has been in effect for the last two years. The coastal ordinance was not adopted by the Coastal Commission until August 2012.
2. **Coastal Commission modifications have gone beyond the scope of the amendment.** The Coastal Commission extended the scope of the Local Coastal Program amendment beyond NPDES compliance. In doing so, they modified the threshold for requiring a Coastal Development Permit. This modification was never discussed or considered at the local level. Over the last two years, Coastal Commission staff and County staff had been communicating on modifications. The topic of Coastal Development Permit thresholds was never raised. This modification constitutes a significant departure from existing policy. As a result, the Board was unable to accept the Coastal Commission's modifications. Accepting all Coastal Commission modifications is necessary for the ordinance to take effect in the Coastal Zone.
3. **We are already implementing interim post-construction requirements on projects throughout the County (both coastal and inland).** As part of the Joint Effort project, led by the RWQCB, the County has committed to using its authority under the drainage plan review process to require interim post-construction stormwater control measures and to monitor them for long-term compliance. Applicants are required to file a Stormwater Control Plan (SWCP) to demonstrate that the project will meet the stormwater requirements.
4. **We anticipate modifying both coastal and inland ordinances by September 2013.** The post-construction stormwater requirements in the 2010 Board-adopted ordinances are already outdated and require modification. In order to comply with NPDES requirements, the County is required to make an additional amendment to the ordinances within the next eight months. Completion of this subsequent amendment would bring the County in alignment with the updated NPDES General Permit.

ATTACHMENTS

1. RESOLUTION
2. EXHIBIT A, Part 1: Coastal Commission Staff Report
3. EXHIBIT A, Part 2: Coastal Commission Exhibits (A through C)
4. EXHIBIT A, Part 3: Coastal Commission Exhibit (D)